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INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

ANNEX

Replies by the Government of Spain
dated 4 March and 1 April 1998

GE.99-10089 (E)

No. 061/98

The Permanent Mission of Spain to the United Nations Office and other international organizations with headquarters in Geneva presents its compliments to the Secretary-General of the United Nations (Office of the High Commissioner for Human Rights) and, in relation to its note G/SO 212/26(1), has the honour to attach herewith the reply of the Government of Spain to the questionnaire transmitted by the Chairman of the Working Group on Human Rights of Migrants.

The Permanent Mission of Spain takes this opportunity to renew to the Secretary-General of the United Nations (Office of the High Commissioner for Human Rights) the assurances of its highest consideration.

4 March 1998

QUESTIONNAIRE CONTAINED IN NOTE G/SO 212/26(1) OF THE SECRETARY-GENERAL OF THE UNITED NATIONS ON HUMAN RIGHTS OF MIGRANTS

1. According to the 1991 census conducted by the National Statistical Institute, the population of Spain in that year was 39,433,930 and the number of non-nationals in Spain was 360,650. According to the Ministry of Social Affairs, there were 538,984 foreign residents in Spain on 31 December 1996.

Attached herewith is a set of dates showing annual immigration of foreigners to Spain (1995), the number of Spaniards abroad in 1995 (2,262,329 in all) and foreign residents with work permits (161,900 in 1996, according to provisional figures).

2.1. Measures to strengthen the promotion, protection and implementation of the human rights of migrants:

Article 48 of the Spanish Constitution provides that the State guarantees the economic and social rights of Spaniards abroad and focuses its policy on their return.

Direct legal measures for the protection of migrants include:

1. Migration Act No. 33/1971, of 21 July.

2. Social Offences and Penalties Act No. 8/1988, of 7 April.

3. Decree No. 1071/70 on health care for migrants and their families.

4. Royal Decree No. 728/1993, of 14 May, establishing old-age pensions for Spanish migrants.

5. Order of 14 December 1995 establishing and governing programmes of action on behalf of Spanish migrants.

This Order, which will shortly be replaced by a similar one, establishes 20 programmes of action by the Government in the following areas:

Assistance for migrants, returnees and their families;

Social and occupational integration assistance;

Social advancement assistance;

Association and cultural assistance;

Assistance for employment abroad.

6. At present, the State Budget Act determines how much is earmarked for assistance for migrants.

Indirect measures include:

1. The bilateral social security agreements which are concluded by Spain and other countries for the social protection of Spanish migrants and their families and which guarantee rights that have been or are being acquired, such as, health care for migrants and their families applying for establishment and residence.

2. Royal Decree No. 996/86, of 25 April governing voluntary affiliation by migrants and their children to Spanish social security, under specific conditions, when they move to countries with which there is no social security agreement guaranteeing them this right.

3. The last Council of Ministers adopted a Royal Decree allowing independent migrants to benefit from Spanish social security health care during temporary travel to Spain by means of a special social security agreement, the cost of which is to be borne by the independent worker.

2.2. Measures to strengthen the promotion, protection and implementation of the human rights of immigrants:

ADMINISTRATIVE PROGRAMMES AND PROCEDURES

One of the main objectives of Spanish foreign policy is the advancement and social integration of immigrants through a social integration plan designed to eliminate any kind of unjustified discrimination in the exercise of rights and in access to services; to promote harmony based on democratic values and tolerant attitudes; to guarantee immigrants a legally and socially stable situation; to overcome obstacles to integration; to eliminate any kind of exploitation; and to mobilize and involve all of society in action to combat racism and xenophobia. To this end, the Ministry of Labour and Social Affairs, working together with other ministerial and government departments, annually adopts programmes of action on behalf of immigrants and provides individual assistance to enable them and their families to cope with extraordinary emergency situations.

PURPOSE

The programmes are designed to bring about the gradual involvement and participation of immigrants in Spanish economic and social life, in an atmosphere of mutual respect and acceptance.

CONTENT

1. Citizen participation programme

Content

Programmes to disseminate attitudes of tolerance, action to combat racism and positive messages about immigration;

Programmes to expand the movement for immigrants' associations and disseminate information about it;

Programmes sponsored by the Forum for the Social Integration of Immigrants.

Priorities

Programmes carried out jointly by various organizations which represent different immigrant groups and conclude an agreement defining the terms of their cooperation.

2. Territorial harmony programme

Content

Programmes for information on the living conditions of the immigrant population carried out by agencies with proven investigatory skills in the fields of housing and immigration;

Programmes designed to improve the immigrant population's access to decent housing, submitted by community initiative with the cooperation of non-governmental organizations, and clearly specifying their viability and social impact;

Community initiative integration plans in the municipal commercial field;

Integrated projects combining various types of action (social, educational, employment, health, culture) financed at least 40 per cent by local or autonomous governments;

Information, guidance and basic social and health care activities for groups having problems obtaining access to standard benefits.

Priorities

Regional infrastructure and dwelling censuses;

Moving immigrants out of shanty towns;

Improving housing conditions for casual workers;

Establishment of funds for housing access and maintenance;

Geographical areas with high immigrant population rates or especially difficult conditions;

Family planning advice;

Information and guidance on the social and health services network;

Programmes for persons and families regarded as socially vulnerable (single parent families, separated women).

PLAN FOR THE SOCIAL INTEGRATION OF IMMIGRANTS

At present, immigration is an inescapable fact for which Europe has to be prepared and which will undoubtedly have cultural, social and economic implications for the countries of the old continent.

The Spanish Government's immigration policy is based on active policy that focuses on:

(a) Dealing with the causes of immigration at the source through cooperation for the development of immigrant-producing countries;

(b) Providing better information on migratory flows and, consequently, establishing quotas that Spain can accept and that allow for the development of an effective integration policy;

(c) Becoming more involved in the social integration of migrants settling in Spain.

The Government has taken the initiative of implementing an integration policy which is based on the commitment of all parties to the adoption by Spanish society of an open and tolerant attitude towards the differences and particularities that characterize the various groups of immigrants, who, in turn, adopt the standards and values which form the basis of Spanish society's democratic harmony.

To this end, the Plan for the Social Integration of Immigrants was adopted by the Council of Ministers on 2 December 1994. The Plan clearly defines the objectives to be achieved as a result of its implementation:

Eliminating any kind of unjustified discrimination in the exercise of rights and in access to services. The principle of non-discrimination is a key element of the Universal Declaration of Human Rights and of the Spanish Constitution and the first objective will be to prevent discrimination in any of its forms;

Promoting harmony based on democratic values and tolerant attitudes. A society is more integrated and fits together better when there is a higher degree of agreement on the identification of the basic elements that guarantee harmony and a tolerant attitude towards differences. Spanish society has worked to consolidate a system of democratic values and freedoms which are the essential basis for its harmony. These values should form the basis of the coexistence of all persons who make up society;

Guaranteeing immigrants a legally and socially stable situation. Legal and administrative uncertainty is often an insurmountable obstacle that leads to marginalization. The adoption of measures which promote security of residence and stability is a key factor in integration;

Combating the obstacles to integration. Immigrants are one of the groups which live in underprivileged social circumstances and encounter particular obstacles, the first of which is, in many cases, the language barrier, which impedes mutual communication and understanding. Apart from

obvious obstacles, there are many others which are subjective and objective in nature and prevent immigrants from benefiting from the principle of equality of opportunity;

Eradicating any form of exploitation. Immigrants are among the most vulnerable groups. The possibility of being exploited often begins in their own country, where they come under the influence of organized networks that make large profits in exchange for unsafe passage and danger, as well as the promise of making it easy to find work. Action to combat the various types of exploitation to which immigrants may be subjected is one of the main objectives of the Plan;

Mobilizing and involving all of society in action to combat racism and xenophobia. The increase in xenophobic and racist feelings and attitudes is one of the main obstacles to harmonious coexistence. Society has to be mobilized against any kind of discriminatory and intolerant attitudes. The media have a great deal of responsibility in this regard, since most of the population forms an opinion about immigrants on the basis of the pictures the media broadcast.

The implementation of the Plan will involve up to 26 measures, which are designed to meet the primary needs of immigrants within Spanish society. Such needs are an obstacle to their integration and affect broad spheres and areas of social life: education, culture, the law, employment and occupation, territorial harmony and citizen participation.

The focus of such activities is primarily social and humanitarian. The Plan provides for a broad range of measures which are undertakings by the authorities to open up channels of genuine integration for immigrants and to establish appropriate forums in which their proposals and claims may be put forward and heard.

There are plans for normative activities designed to govern the legal conditions for residence and stay in Spanish territory, as well as migration offences and the prosecution of xenophobic and racist conduct and attitudes.

Measures are being proposed to promote job integration through vocational guidance and training. Provision has also been made for access to and the use of social services; specific services are created when conditions so warrant, as in the case of children, adolescents and women.

To meet the educational and cultural needs of immigrants, action is being taken to promote cultural exchanges and understanding, to include information programmes in the educational system and to prevent racist and xenophobic behaviour by encouraging multiculturalism and tolerance.

Measures are also being taken to promote social participation by encouraging immigrants to join participatory associations and organizations. Activities are being organized to make the media aware, through a "code of ethics", of their responsibility to take part in and organize information and awareness campaigns relating to prejudices and stereotypes connected with immigrants.

Two institutions have been established to help ensure and guarantee the full implementation of the Plan: the Permanent Immigration Monitoring Agency, which will prepare analyses of the situation at any given time and thus be able to forecast trends in, and the consequences of immigration for host societies, and the Forum for the Integration of Immigrants, which will be a channel for participation and dialogue and a means of involving society as a whole in efforts to find solutions and alternatives to the integration of immigrants.

With a view to the implementation of the Plan for the Social Integration of Immigrants, a number of practical measures have been taken in the public sector and, in order to be effective, they have to be carried out by all citizens, whose cooperation and solidarity are needed to ensure that immigrants become active participants in society instead of being excluded from it.

This is an important Plan that will affect the future of Spanish society. Migration flows are one of the main challenges it faces. Its ability to guide and channel such flows and guarantee the integration of immigrants will ultimately lead to positive solutions to any problems that may arise. The implementation of the Plan will ensure acceptance of diversity, solidarity with those who are different, tolerance and respect for human values as a basis for harmonious coexistence.

3. Educational and cultural programme

Content

Spanish language and culture programmes, particularly through classes and the production of teaching methods, as a means of overcoming language and cultural barriers;

Programmes to teach and maintain languages and cultures of origin to supplement those offered in Spain by the authorities of countries of origin and the host country;

Programmes to give immigrant women the information and skills they need to integrate more easily into the new environment;

Information and guidance programmes for the parents of immigrant children about the Spanish education system, as well as the system of educational assistance and other resources offered by the Government;

Programmes to promote awareness and coexistence by the immigrant population and the host society through activities to provide information on the cultural characteristics of immigrants and their participation in Spanish cultural life through joint activities carried out by the Government and private organizations.

Priorities

Programmes organized in cooperation with non-university educational centres;

Programmes intended for immigrant groups;

Programmes for women and adolescents intended for immigrant groups with particular integration problems resulting from cultural characteristics which are very different from those of the host society.

4. Job and occupations programme

Content

Social and employment information and advisory programmes on employment and workers' rights whose objective is to guarantee equality of opportunity for immigrants and other workers;

Pretraining programmes to facilitate access to occupational and institutional training activities;

Self-employment and job market programmes for immigrants with particular placement problems resulting from their immigrant status;

Occupational vocational training programmes whose immediate purpose is to find places for immigrants who have lost their jobs or to enable them to keep the jobs they have.

Priorities

Preference will be given to programmes whose implementation may offer reasonable opportunities to guarantee specific employment and which are carried out in cooperation with government vocational training agencies.

5. Permanent Immigration Monitoring Agency

Content

Specific studies providing relevant information on the variables contained in the Permanent Immigration Monitoring Agency (OPI) system.

Priorities

Occupational studies of foreign manpower;

Prospective studies on trends in non-Community foreign population flows;

Studies on the socio-political situation in countries where migratory flows originate;

Analysis of regional conditions for the integration of immigrant groups;

Activities by municipalities in Catalonia, the Balearic Islands, Madrid, Murcia and Andalucía and the Basque Country.

Geneva, 1 April 1998

088/98

The Permanent Mission of Spain to the United Nations Office and other international organizations with headquarters in Geneva presents its compliments to the Secretary-General of the United Nations (Office of the High Commissioner for Human Rights) and, in connection with its note verbale No. 061/98 of 4 March 1998, has the honour to attach herewith two additional pieces of information on the questionnaire on human rights of migrants prepared by the Ministry of the Interior and the Ministry of Labour and Social Affairs, with the request that they should be transmitted to the Chairman of the Working Group on Human Rights of Migrants.

The Permanent Mission of Spain takes this opportunity to renew to the Secretary-General of the United Nations (Office of the High Commissioner for Human Rights) the assurances of its highest consideration.

REPLIES TO THE QUESTIONNAIRE ON HUMAN RIGHTS OF MIGRANTS

1. Total population of Spain: about 40 million, of whom some 550,000 are foreign residents (260,000 are European, 125,000 American, 110,000 African and 40,000 Asian).

Nationals abroad: 2,125,000, of whom 430,000 live in Argentina, 320,000 in Venezuela, 310,000 in France, 130,000 in Germany, Switzerland and Brazil and 100,000 in Uruguay and the United States.

Some 300,000 persons are authorized to work in Spain following the regularizations of foreign workers which took place in 1991 and 1996. Between 15,000 and 20,000 foreign workers are authorized each year.

There are between 40,000 and 60,000 irregular immigrants.

2. Article 13, paragraph 1, of the Spanish Constitution states that "Aliens in Spain shall enjoy the public freedoms guaranteed by the present Title, under the terms laid down by treaties and the law". The regulations to give effect to Organizational Act No. 7/1985 on rights and freedoms of foreigners broadly recognizes the rights of non-Community residents, which are regulated in the 1995 Royal Decree.

There are programmes to disseminate the values of tolerance and action to combat racism and xenophobia in society and schools, as well as positive information campaigns on the values that immigrants contribute. In 1996, 346 million pesetas of assistance were earmarked for the advancement and social integration of immigrants, in addition to 717 million from 0.52 per cent of the income tax appropriation for social welfare and assistance for the co-financing of European Social Fund projects.

A bill for the integration of immigrants which is being drafted by the Congress of Deputies provides for the rights of immigrant foreigners and new measures to be adopted by various government departments for their integration into Spanish society.

3. There have been sporadic manifestations which are contrary to the values of tolerance and which have racist overtones, particularly in areas with concentrations of immigrant casual workers (rural areas, outskirts of large towns, etc.) and Gypsies (shanty towns, slums, etc.), but it cannot be said that racist feelings are widespread in Spanish society. Racist attitudes have also been observed in schools, particularly against the Gypsy population and Muslim immigrants. Nonetheless, Spanish society welcomes foreigners; it may thus be said only that there are occasional outbreaks of racism or xenophobia; the country is, rather, opening up little by little to multiculturalism and the acceptance of foreigners, whose work is necessary in many sectors, such as seasonal farm work, greenhouse crop growing, construction, the hotel trade, domestic service, peddling, etc.

4. ILO Convention No. 97 concerning Migration for Employment was ratified in 1967, but ILO Convention No. 143 and the International Convention on the Protection of the Rights of All Migrant Workers and Their Families have not yet been ratified by Spain.

1.6.122

On 10 February 1998, this Department received a request from the Technical Secretariat that it should answer the questions within its competence contained in the questionnaire on the human rights of migrants transmitted by the Office of the United Nations High Commissioner for Human Rights.

The following answers are provided in response to the request relating to the questions within the competence of this Department:

1 (a) Non-nationals, preferably by nationality of origin:

In 1996, 538,984 foreigners lived in Spain, of whom 319,327 were residents under the Community regime and 219,657 were not nationals of the European Economic Area or persons related to them.

For further information, copies are provided of the 1996 Statistical Yearbook of Foreigners, which shows the number of foreign residents by nationality and place of residence.

1 (b) Number of non-nationals having authorization to work in the country:

In this connection, it may be noted that, under the general regime, there were 161,900 foreign workers with work permits as at 31 December 1996. A copy is also provided of the 1996 Statistical Yearbook of Foreigners, which classifies such foreigners by sex and country of nationality.

2. Measures which are being taken to strengthen the promotion, protection and implementation of the human rights of migrants:

I. In this regard, it is pointed out that, according to Spanish law, the main objectives of administrative action are:

To guarantee foreign residents a legally and socially stable situation;

To overcome obstacles to their integration and eliminate unjustified discrimination;

To combat the exploitation of foreign workers;

To promote coexistence based on democratic values and mobilize society against racism and xenophobia.

II. The following measures have been adopted to promote the achievement of these objectives:

With regard to legislative measures, the new regulations to give effect to Organizational Act No. 7/1985 introduced provisions which have helped to increase the legal security of foreigners:

The new system of residence and work permits allows permanent residence permits to be granted to foreigners who produce evidence of having resided in Spain legally for six years and to those who have special ties with the country;

The possibility of working is available to students and asylum seekers;

Measures of protection are established for abandoned foreign minors in the country;

The system enabling foreign residents to reunite with their families and live with them in Spain has been improved as a result of the simplification of the visa procedure.

As to relations between the various departments with competence in matters relating to foreigners, cooperation has been established between the Government, the autonomous communities and local authorities for the smooth implementation of government policy relating to foreigners;

In connection with intra-administrative relations, administrative bodies are to be set up to handle the processing and granting of permits to foreigners (Foreigners' Offices), as well as to simplify administrative procedures relating to such permits;

The aim of the Foreigners' Offices is the integration, at the provincial level, of services, functions and staff handling files relating to the various permits and authorizations required of foreigners in Spain, as well as the relevant penalties and statistical information;

These Offices report, in organizational terms, to government offices and branch officers and, functionally, to the Ministries of the Interior and Labour and Social Affairs.

III. The European Year against Racism was celebrated in 1997. In this connection, this Department carried out the following activities:

(a) Preparation of a booklet on the European Year against Racism which is informative and intended for the public at large;

(b) Instructions to government offices and branch offices.

A basic document was prepared on the provisions relating to the prevention and punishment of racism and xenophobia, with specific instructions to pay greater attention to this problem and take harsher measures in cases in which penalties might be applicable.

(c) National Commission against Violence in Sports:

(i) Reports and Infrastructure Committee: greater severity was called for in proposals for disciplinary proceedings against officials of government offices and branch offices in cases involving xenophobic attitudes;

(ii) Studies, Prevention and Publications Committee: studies were commissioned on integration in sports, as well as measures to prevent xenophobic attitudes;

(iii) Non-Professional Committee: action has been taken during non-professional and rural sports competitions to introduce attitudes of tolerance and integration.

(d) General and continuous training plan for officials in 1997: courses on foreigners and asylum.

The courses on foreigners and asylum forming part of the continuous training plan took place in Cádiz, Navarra, Pontevedra, Seville, Tarragona and Zaragoza in November and in Las Palmas in December.

The general content of the courses, which analysed the rules and regulations in force in respect of foreigners and asylum, included a unit on the treatment, prevention and elimination of racism, xenophobia and anti-Semitism and the study of all related national and international provisions.

Madrid, 23 February 1998

(Signed) José Ramon Onega Lopez
Director-General

Note by the secretariat: The annexes are contained in the secretariat files and are available on request.